



SPW

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Appl. No.** : 10/701,502  
**Applicant** : Daniel SOBEK  
**Filed** : November 6, 2003  
**Title** : ELECTROSTATIC SEALING DEVICE AND METHOD OF USE  
THEREOF  
**TC/A.U.** : 3751  
**Examiner** : JACYNA, J. Casimer  
**Docket No.** : 10030727-1  
**Customer No.** : 22878

**Mail Stop Amendment**

Commissioner of Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

**RESPONSE TO ELECTION OF SPECIES REQUIREMENT**

Sir:

This *Response and Election* is filed, pursuant to 37 C.F.R. § 1.143 and § 1.146, in reply to the Election of Species Requirement mailed by the Patent & Trademark Office on March 31, 2005.

Claims 1-20 (original) are pending in the current application. The Office Action states that the application contains claims directed to the following patentably distinct species of the claimed invention: Figs. 1A and 1B; Fig. 2A; Fig. 2B; Fig. 2C; Fig. 2D; Fig. 3B; Fig. 3D; Fig. 3E; and Fig. 3G. Applicant traverses the restriction requirement.

Applicant respectfully submits that the Office Action does not provide reasons and/or examples to support the conclusion that the application contains claims directed to the listed species as required by the MPEP. *See* MPEP § 803. The MPEP guidelines state that for

the purpose of the initial requirement related to a restriction (a generic term that includes election of species as stated in MPEP § 802.02) requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or different field of search. *See* MPEP § 803. Applicant submits that the Office Action fails to meet its burden. The Office Action merely lists the alleged distinct species and requires Applicants to make an election. The Office Action offers no explanation in support of the separate species classification as required by the MPEP.

Applicant believes that search and examination of the entire application can be made without serious burden on the Patent Office. Applicant submits that the application contains a reasonable number of species that can be examined together without serious burden on the Patent Office. Applicant respectfully requests withdrawal of the election of species requirement and requests examination of the current application on the merits.

Below, Applicant has grouped the claims and identified the species the claims read on. Also, Applicant makes a provisional election based on the below groupings. Based on Applicant's analysis:

- Group 1 includes claims 1-8 and 20 that read on Figs. 1A and 1B;
- Group 2 includes claims 1, 3-9, 11-13 and 20 that read on Fig. 2A, 2B, 2C;
- Group 3 includes claims 1, 3-8 and 20 that read on Fig. 2D;
- Group 4 includes claims 1-13 and 19-20 that read on Figs. 3A, 3B, 3C, 3D and 3F;
- Group 5 includes claims 1-13 and 15-20 that read on Figs. 3A and 3E; and
- Group 6 includes claims 1-14 and 19-20 that read on Figs. 3A and 3G.

In the event the Examiner disagrees with the Applicant's grouping of the claims, Applicant requests that the Examiner provide alternative grouping of the claims.

Based on the above groupings, Applicant provisionally elects Group 5 that includes claims 1-13 and 15-20 that read on Figs. 3A and 3E, for examination.

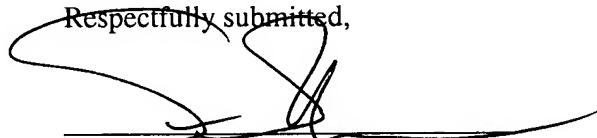
Applicant reserves the right to prosecute the remaining claims by filing one or more divisional applications.

In view of the above remarks, Applicant respectfully requests examination of the current application on the merits and submits that the application is in condition for allowance. Prompt examination and allowance are respectfully requested.

Should the Examiner believe that anything further is desired in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Date: May 2, 2005

Respectfully submitted,



Sean S. Wooden  
Registration No. 43,997  
**Andrews Kurth LLP**  
1701 Pennsylvania Ave, N.W.  
Suite 300  
Washington, DC 20006  
Tel. (202) 662-2738  
Fax (202) 662-2739